an equitable conversion of the realty into personalty, and as the son possessed no realty the levy and sale are void. *Greenman* v. *McVey* (Minn.), 147 N. W. 812.

The weight of authority sustains this view. *Appeal of Emery*, 83 Conn. 235, 76 Atl. 529; *Beaver* v. *Ross*, 140 Iowa 154, 118 N. W. 287, 20 L. R. A. (N. S.) 65. The same rule obtains in the Federal Courts. *Ramsey* v. *Hanlon*, 33 Fed. 425. The maxim "Equity considers that as done which ought to be done," is the basis of this doctrine. *Haward* v. *Peavy*, 128 Ill. 430. But there is authority *contra* that the conversion takes place only at the time of the actual sale. *Sayles* v. *Best*, 140 N. Y. 368, 35 N. E. 636; *Williams* v. *Lobban*, 206 Mo. 399, 104 S. W. 58. It follows that where such equitable conversion occurs the realty will devolve as personalty and the personal representative take rather than the heirs. *Elliott* v. *Fisher*, 12 Sim. 505. A good distinction is drawn in cases where the sale is contingent, as where land was devised to three sons with the condition that at the time the youngest reached his majority the land was to be sold and the proceeds distributed among them, it was held that there would be no sale unless the youngest reached his majority and the realty retained its character as such until an actual sale. *Elliott* v. *Loflin*, 160 N. C. 361, 76 S. E. 236. The criterion is the intention of the testator. See *Greenman* v. *McVey, supra; Elliott* v. *Loflin, supra.*

WILLS—EXECUTION—ATTESTATION.—A testator asked witness to attest his will but on account of the way it was folded his signature could not be seen. *Held*, the will was not duly attested. *Nunn* v. *Ehlert* (Mass.), 106 N. E. 163. See NOTES, p. 228.

WILLS—LEGACIES CONDITIONED ON OBTAINING DIVORCE OR SEPARATION.—A legacy to the testator's son was conditioned upon the death of the son's wife or his divorce or separation from her, and provided for a forfeiture of the legacy if the son should, after such separation, return to her. *Held*, such condition is not void as against public policy. *Daboll* v. *Moon* (Conn.), 91 Atl. 646.

The law does not favor divorces, but they are granted when such seems to accord better with the interests of society than to preserve the integrity of the marriage. *Dennis* v. *Dennis*, 68 Conn. 186, 36 Atl. 34, 57 Am. St. Rep. 95, 34 L. R. A. 449. As a general rule, contracts and provisions tending to induce a husband and wife to live separate or to obtain a divorce are void as against public policy. *Blank* v. *Nohl*, 112 Mo. 159, 20 S. W. 477, 18 L. R. A. 350. But the validity of a legacy conditioned upon divorce or separation depends upon the intention of the testator. *Coe* v. *Hill*, 201 Mass. 15, 86 N. E. 949; *Snorgrass* v. *Thomas* (Mo. App.), 150 S. W. 106. If his purpose was to provide for the legatee in case she was deprived of the support of her husband, *Dusbiber* v. *Melville* (Mich.), 146 N. W. 208, or to put the property out of the reach of the husband and his creditors, *Ellis* v. *Birkhead*, 30 Tex. Civ. App. 529, 71 S. W. 31, the condition is valid. But if the manifest intention of the testator was to bring about a separation or divorce, or to prevent a

reconciliation where the parties were living separate at the time, the condition is against public policy and void. *In re Haight's Will*, 51 App. Div. 310, 64 N. Y. Supp. 1029; *O'Brien* v. *Barkley*, 78 Hun. 609, 28 N. Y. Supp. 1049; *Witherspoon* v. *Brokaw*, 85 Mo. App. 169.

In the principal case the circumstances seem to indicate that it was the purpose of the testator to induce the legatee to obtain a divorce from his wife. It seems, therefore, on principle and by the weight of authority, the condition should be regarded as against public policy and void.